

1 BEFORE THE
2 POLLUTION CONTROL HEARINGS BOARD
 STATE OF WASHINGTON

3 IN THE MATTER OF)
4 ARLENE NORRIS,)

5 Appellant,)

6 v.)

7 SOUTHWEST AIR POLLUTION)
8 CONTROL AUTHORITY,)

9 Respondent.)
 _____)

PCHB No. 864

 FINAL
 FINDINGS OF FACT,
 CONCLUSIONS OF LAW AND ORDER

10 THIS MATTER being an appeal of a \$50 civil penalty for an alleged
11 failure to have a permit for an open fire in violation of respondent's
12 Regulation I; having come on regularly for formal hearing before the
13 Pollution Control Hearings Board on the 25th day of July, 1975, at
14 Vancouver, Washington; and appellant Arlene Norris appearing pro se
15 and respondent Southwest Air Pollution Control Authority appearing
16 through its attorney, James D. Ladley and hearing examiner William
17 A. Harrison present at the hearing and the Board having read the
18 transcript, considered the exhibits, records and files herein and

1 having entered on the 14th day of August, 1975, its proposed
2 Findings of Fact, Conclusions of Law and Order, and the Board
3 having served said proposed Findings, Conclusions and Order upon
4 all parties herein by certified mail, return receipt requested
5 and twenty days having elapsed from said service; and

6 The Board having received no exceptions to said proposed
7 Findings, Conclusions and Order; and the Board being fully advised
8 in the premises; now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
10 Findings of Fact, Conclusions of Law and Order, dated the 14th
11 day of August, 1975, and incorporated by this reference herein
12 and attached hereto as Exhibit A, are adopted and hereby
13 entered as the Board's Final Findings of Fact, Conclusions of
14 Law and Order herein.

15 DONE at Lacey, Washington this 15th day of September, 1975.

16 POLLUTION CONTROL HEARINGS BOARD

17
18 Chris Smith
CHRIS SMITH, Chairman

19
20 Walt Woodward
21 WALT WOODWARD, Member

22
23
24
25
26 FINAL FINDINGS OF
27 FACT, CONCLUSIONS OF
LAW AND ORDER

CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I deposited in the United States mail, copies of the foregoing document on the 16th day of September, 1975, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Ms. Arlene Norris
11603 S.E. 7th Street
Vancouver, Washington 98664

Mr. James D. Ladley
Attorney at Law
P. O. Box 938
Vancouver, Washington 98660

Southwest Air Pollution Control Authority
7601 H Northeast Hazel Dell Avenue
Vancouver, Washington 98665


LARENE BARLIN
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
ARLENE NORRIS,)
Appellant,)
v.)
SOUTHWEST AIR POLLUTION)
CONTROL AUTHORITY,)
Respondent.)

PCHB No. 864

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$50 civil penalty for an alleged failure to have a permit for an open fire in violation of respondent's Regulation I, came before the Pollution Control Hearings Board (William A. Harrison, hearing examiner, presiding) as a formal hearing in the City Hall at Vancouver, Washington, on July 25, 1975.

Appellant Arlene Norris appeared pro se; respondent appeared by and through its attorney, James D. Ladley.

Witnesses were sworn and testified. Exhibits were admitted. From testimony heard and exhibits examined, the Pollution Control Hearings

EXHIBIT A

1 Board makes these

2 FINDINGS OF FACT

3 I

4 Respondent introduced into the evidence its Regulation I without
5 objection from appellant.

6 II.

7 On May 5, 1975, in Vancouver, Clark County, Washington, appellant
8 gave permission for her son to dismantle abandoned automobiles in her
9 possession so that he might earn money by selling the salvaged parts.

10 III.

11 Appellant knew that on May 5, 1975, her son was employing a cutting
12 torch to dismantle the cars. Although appellant's son exercised some
13 care in his work to avoid igniting the car bodies, and although he
14 took the precaution of maintaining a water hose nearby, nevertheless,
15 the oil and grime-coated car bodies became ignited. Although three of
16 the four car bodies involved were concealed by a hedge between appellant's
17 house and their location, the fourth vehicle was plainly in view of the
18 appellant as it smoldered and burned. Appellant was aware of burning
19 on May 5, 1975.

20 IV.

21 On May 6, 1975, the burning and dismantling reoccurred without any
22 attempt by appellant to extinguish the fires or require that they be
23 extinguished.

24 V.

25 On May 6, 1975, responding to a complaint telephoned to its office,
26 respondent sent an agent to the appellant's residence where he observed

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 smoldering car bodies and caused appellant to be notified of a violation
2 of Section 4.01 of respondent's Regulation I. On May 12, 1975, a notice
3 of civil penalty in the amount of \$50.00 was imposed by written notice
4 delivered by certified mail. The return receipt was signed by Susie
5 Norris, a person residing at appellant's residence.

6 VI.

7 Appellant at all times stated above had no open burning permit nor
8 was she aware until the notice of violation of any requirement of one.

9 VII.

10 Section 4.01 of respondent's Regulation I provides that "No person
11 shall ignite, cause to be ignited, or suffer, allow, or maintain any open
12 fire within the jurisdiction of the Authority." The burning of materials
13 containing petroleum products, paints, or rubber products is prohibited
14 Section 4.01(b)(2)(v). Salvaging operations by burning is also
15 prohibited. Section 4.01(b)(2)(ii).

16 VIII.

17 Any Conclusion of Law hereinafter recited which is deemed to be
18 a Finding of Fact is adopted herewith as same.

19 From these Findings, the Pollution Control Hearings Board comes
20 to these

21 CONCLUSIONS OF LAW

22 I.

23 Appellant, through her knowledge, had the legal responsibility to
24 stop the fire. By failing to do so, she has allowed an open fire in
25 violation of respondent's Regulation I. Section 4.01(b)(2)(v). The
26 material burned violated that subsection in that it was a substance which

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 emits dense smoke and contains petroleum products, paints, or rubber
2 products.

3 II.

4 Respondent's Regulation I, Section 4.01(b)(2) would have prohibited
5 respondent from issuing a permit for the open burning of such material
6 even if appellant had requested a permit beforehand.

7 III.

8 Any Finding of Fact recited herein which is deemed to be a Conclusion
9 of Law is adopted herewith as same.

10 Therefore, the Pollution Control Hearings Board issues this

11 ORDER

12 The assessment of a \$50 civil penalty is affirmed. Under the
13 circumstances of this case, the civil penalty is reduced to the sum of
14 \$35, and the balance suspended for six months provided that appellant
15 does not incur any violation within this period. A \$35 penalty is
16 sufficient to justly punish the violation which occurred and to admonish
17 the appellant that the State of Washington, by its Legislature, has
18 founded a policy in favor of high air quality to which end outdoor fires
19 are allowed only under strict regulations and close control.

20 DATED this 14th day of August, 1975.

21 POLLUTION CONTROL HEARINGS BOARD

22 Chris Smith
23 CHRIS SMITH, Chairman

24 Walt Woodward
25 WALT WOODWARD, Member

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER